

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 367

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**Introduced by Assembly Members Galgiani and Audra Strickland**

February 23, 2009

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~~An act relating to Medi-Cal.~~ *An act to amend Section 16531.1 of the Government Code, and to repeal Section 14041.1 of the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefor.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 367, as amended, Galgiani. ~~Medi-Cal: skilled nursing facilities and intermediate care facilities for persons with developmental disabilities.~~ *Medi-Cal: HIV drug treatment: developmental services: provider reimbursement.*

*Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons.*

*Existing law creates the continuously appropriated Medical Providers Interim Payment Fund, for the purposes of paying Medi-Cal providers, providers of drug treatment services for persons infected with HIV, and providers of services for the developmentally disabled, on and after July 1, and before September 1, of the fiscal year for which a budget has not yet been enacted or there is a deficiency in the Medi-Cal budget in any fiscal year, and appropriates, for each fiscal year in which these payments are necessary, up to \$1,000,000,000 from the General Fund, in the form of loans, and \$1,000,000,000 from the Federal Trust Fund to the Medical Providers Interim Payment Fund.*

*This bill would, instead, provide that these transfers to the Medical Providers Interim Payment Fund shall be in an amount sufficient to make continued payments to the above-described providers. To the extent that the bill would increase the amount transferred into a continuously appropriated fund, this bill would make an appropriation.*

*Under existing law, notwithstanding any other provision of law, and to the extent not otherwise conflicting with federal law, the department is authorized to hold, or direct the medical fiscal intermediary for the Medi-Cal program to hold, payments for Medi-Cal providers, as described, for a period of one month for a month ending prior to June 30, 2009.*

*This bill would delete the above provisions.*

~~Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services, including skilled nursing facility services and intermediate care facility services for persons with developmental disabilities, are provided to qualified low-income persons.~~

~~This bill would state the intent of the Legislature to enact legislation that would ensure that facilities serving the elderly and persons with developmental disabilities receive the uninterrupted Medi-Cal payments necessary to ensure continuous services for those who rely on their care.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 16531.1 of the Government Code is*  
2     *amended to read:*

3     16531.1. (a) Notwithstanding any other provision of law and  
4     without regard to fiscal year, if the annual State Budget is not  
5     enacted by June 30 of any fiscal year preceding the fiscal year to  
6     which the budget would apply or there is a deficiency in the  
7     Medi-Cal budget during any fiscal year, both of the following shall  
8     occur:

9     (1) (A) The Controller shall ~~annually~~ transfer from the General  
10    Fund, in the form of one or more loans, an amount ~~not to exceed~~  
11    ~~a cumulative total of one billion dollars (\$1,000,000,000) in any~~  
12    ~~fiscal year, sufficient to make continued payments to Medi-Cal~~  
13    ~~providers, providers of services under Chapter 6 (commencing~~  
14    ~~with Section 120950) of Part 4 of Division 105 of the Health and~~

1 *Safety Code, and providers of services under Division 4.5*  
2 *(commencing with Section 4500) of the Welfare and Institutions*  
3 *Code, to the Medical Providers Interim Payment Fund, which is*  
4 *hereby created in the State Treasury. Notwithstanding Section*  
5 *13340 of the Government Code, the Medical Providers Interim*  
6 *Payment Fund is hereby continuously appropriated without regard*  
7 *to fiscal year for the purpose of making payments to Medi-Cal*  
8 *providers, providers of services under Chapter 6 (commencing*  
9 *with Section 120950) of Part 4 of Division 105 of the Health and*  
10 *Safety Code, and providers of services under Division 4.5*  
11 *(commencing with Section 4500) of the Welfare and Institutions*  
12 *Code, on in either of the following ways:*

13 *(i) On or after July 1 of the fiscal year for which no budget has*  
14 *been enacted and before September 1 of that year or for the purpose*  
15 *of making payments, and until the date upon which a budget is*  
16 *enacted for that year, to Medi-Cal providers, providers of services*  
17 *under Chapter 6 (commencing with Section 120950) of Part 4 of*  
18 *Division 105 of the Health and Safety Code, and providers of*  
19 *services under Division 4.5 (commencing with Section 4500) of*  
20 *the Welfare and Institutions Code, during the period in which the*  
21 *Medi-Cal program has a deficiency.*

22 *(ii) During the period in which the Medi-Cal program has a*  
23 *deficiency, to Medi-Cal providers.*

24 *(B) Payments shall be made pursuant to this subdivision if both*  
25 *of the following conditions have been met:*

26 *(A)*

27 *(i) An invoice has been submitted for the services.*

28 *(B)*

29 *(ii) Payment for the services is due and payable and the State*  
30 *Department of Health Care Services determines that payment*  
31 *would be valid.*

32 *(2) For any fiscal year to which this subdivision applies, there*  
33 *is hereby appropriated the sum of one billion dollars*  
34 *(\$1,000,000,000) an amount of money that is sufficient to make*  
35 *additional continued payments to the providers described in*  
36 *paragraph (1) of subdivision (a) on or after July 1 of the fiscal*  
37 *year in which no budget has been enacted and until the date upon*  
38 *which a budget is enacted for that year, or during the period in*  
39 *which the Medi-Cal program has a deficiency, from the Federal*  
40 *Trust Fund to the Medical Providers Interim Payment Fund.*

(b) Upon the enactment of the annual Budget Act or a deficiency bill in any fiscal year to which subdivision (a) applies, the Controller shall transfer all expenditures and unexpended funds in the Medical Providers Interim Payment Fund to the appropriate Budget Act item.

(c) The amount of any loan made pursuant to subdivision (a) and for which moneys were expended from the Medical Providers Interim Payment Fund shall be repaid by debiting the appropriate Budget Act item in accordance with the procedure prescribed by the Department of Finance.

*SEC. 2. Section 14041.1 of the Welfare and Institutions Code is repealed.*

~~14041.1. (a) Notwithstanding any other provision of law, and to the extent not otherwise conflicting with federal law, the department may hold for a period of one month, or direct the medical fiscal intermediary for the Medi-Cal program to hold for a period of one month, payments to providers or their designated agents for health care services that are provided pursuant to this chapter, and payments to entities that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200) and Chapter 8.75 (commencing with Section 14590) for the delivery of health care services.~~

~~(b) The authority described in subdivision (a) shall be limited to payments for one month only, and only for a month ending prior to June 30, 2009.~~

~~SECTION 1. (a) The Legislature finds and declares all of the following:~~

~~(1) Skilled nursing facilities and intermediate care facilities for persons with developmental disabilities provide comprehensive 24-hour care to more than 300,000 of California's most vulnerable citizens each year.~~

~~(2) Sixty-five percent of the elderly patients in skilled nursing facilities, and nearly 100 percent of the clients in intermediate care facilities for persons with developmental disabilities, rely on Medi-Cal benefits. A delay in Medi-Cal payments places many individual providers and the people they serve in extreme jeopardy.~~

~~(3) Services provided by skilled nursing facilities and intermediate care facilities for persons with developmental disabilities are dictated by very prescriptive federal and state requirements that make it impossible for these providers to~~

1 discharge patients, delay services, or change the intensity of their  
2 care to accommodate a delay in reimbursement.

3 (4) ~~Because the government is a dominant payor for services~~  
4 ~~provided by skilled nursing facilities and intermediate care facilities~~  
5 ~~for persons with developmental disabilities, it is also impossible~~  
6 ~~for these providers to compensate for delayed Medi-Cal payments~~  
7 ~~by shifting costs to other payors or generating revenue from~~  
8 ~~alternative sources.~~

9 (5) ~~In light of the compromised state of the current credit market,~~  
10 ~~skilled nursing facilities and intermediate care facilities for persons~~  
11 ~~with developmental disabilities are either unable to secure~~  
12 ~~short-term loans or forced to pay exorbitant rates for money they~~  
13 ~~borrow to compensate for the lack of Medi-Cal revenue.~~

14 (b) ~~It is therefore the intent of the Legislature to enact legislation~~  
15 ~~that would ensure that facilities serving the elderly and persons~~  
16 ~~with developmental disabilities receive the uninterrupted Medi-Cal~~  
17 ~~payments necessary to ensure continuous services for those who~~  
18 ~~rely on their care.~~